

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

VICKI H.,¹

Plaintiff,

vs.

COMMISSIONER OF SOCIAL SECURITY,²

Defendant.

Case No. 3:16-cv-02036-JR
ORDER

AIKEN, Judge:

Magistrate Judge Russo filed her Findings and Recommendation (“F&R”) (doc. 39) on June 29, 2018. The matter is now before me. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72. No objections have been timely filed. Although this relieves me of my obligation to perform a *de novo* review, I retain the obligation to “make an informed, final determination.” *Britt v. Simi*

¹ In the interest of privacy, this order uses only the first name and the initial of the last name of the non-governmental party in this case.

² Nancy A. Berryhill’s term as the Acting Commissioner of the Social Security Administration ended on November 17, 2017, and a new Commissioner has not been appointed. The official title of the head of the Social Security Administration is the “Commissioner of Social Security[.]” 42 U.S.C. § 902(a)(1). A “public officer who sues or is sued in an official capacity may be designated by official title rather than by name[.]” Fed. R. Civ. P. 17(d). I therefore refer to defendant only as Commissioner of Social Security.

Valley Unified Sch. Dist., 708 F.2d 452, 454 (9th Cir. 1983), *overruled on other grounds*, *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121–22 (9th Cir. 2003) (en banc). The Magistrates Act does not specify a standard of review in cases where no objections are filed. *Ray v. Astrue*, 2012 WL 1598239, *1 (D. Or. May 7, 2012). Following the recommendation of the Rules Advisory Committee, I review the F&R for “clear error on the face of the record[.]” Fed. R. Civ. P. 72 advisory committee’s note (1983) (citing *Campbell v. United States District Court*, 501 F.2d 196, 206 (9th Cir. 1974)); *see also United States v. Vonn*, 535 U.S. 55, 64 n.6 (2002) (stating that, “[i]n the absence of a clear legislative mandate, the Advisory Committee Notes provide a reliable source of insight into the meaning of” a federal rule). Having reviewed the file of this case, I find no clear error.

THEREFORE, IT IS HEREBY ORDERED that I adopt Judge Russo’s F&R (doc. 39). Plaintiff is hereby awarded \$14,681.53 in fees pursuant to the EAJA.

Dated this 2nd day of August 2018.



Ann Aiken
United States District Judge